Remarks/Arguments

In the Final Office Action dated February 25, 2008, it is noted that claims 1, 3, and 5-16 are pending, and that claims 1, 3, and 5-16 stand rejected under 35 U.S.C. §102.

By this response, claims 1 and 9 have been amended to clarify an aspect of the present invention, claims 7 and 13 have been cancelled without prejudice, new claims 17-20 have been added, and claims 11-12 and 14-15 have been amended to show antecedent basis. Claims 2 and 4 had been cancelled in a prior response. No new matter has been added.

Examiner Interview

Applicants' representative thanks the Examiner for the courtesy extended in a telephone interview conducted on May 5, 2008. The subject of the interview was a clarification of the grounds for rejection under 35 U.S.C. §102, in which two separate references were combined to make the rejection. In that interview, the propriety of the rejection under 35 U.S.C. §102 was questioned in view of the use of two references and a discussion was held about whether 35 U.S.C. §103 was the proper statutory ground for such a rejection.

Amendment to the Claims

Claims 1 and 9 have been amended to clarify the rate at which the sequence of pictures is animated with respect to the video frame rate.

Claims 11, 12, 14, and 15 have been amended to change the term "apparatus" to "the apparatus" in order to show antecedent support.

Claims 17-20 have been added. The limitations in new claims 17-20 are disclosed in now cancelled claims 7 and 13 and in the original specification at page 4, lines 7-16, in Table 1, at page 7, lines 8-20, and at page 9, line 19 through page 10, line 16.

The amendments to the claims are believed to be proper and justified. All the pending claims are believed to be supported by the original application. No new matter has been added to the claims.

Cited Art

The following references have been cited and applied as prior art in the present Office Action: *"Flash 5 in an Instant"*, by Michael Toot et al., pages 166-181 (Wiley 2001) (hereinafter referenced as "*Toot*") and "*Flash 5! Creative Web Animation*", by Derek Franklin, Chap. 5 (three (3) pages) and Chap. 10, Level 1, Section 2 (eight (8) pages) (hereinafter referenced as "*Franklin*"). The combination of Franklin and Toot is referenced as "*Flash*" on page 5 of the present Office Action.

On page 5 of the present Office Action, it is stated that the publication date of the Toot reference is August 2001. This date appears at the web page cited in the Office Action. However, and in contrast to the August 2001 publication date, both the author's own Internet web page at www.miketoot.com/books.html and the Amazon.com Internet web page for the Toot reference at www.amazon.com/exec/obidos/ASIN/0764536249/miketoothomep-20 show that publication occurred in December 2001. It should be noted that the original publisher IDG was replaced by the Wiley label. Correction of the date of publication in accordance with the preponderance of the evidence is respectfully requested.

Rejection of Claims 1, 3, and 5-16 under 35 U.S.C. §102

Claims 1, 3, and 5-16 stand rejected under 35 U.S.C. §102 as being anticipated by Flash. As noted above, claims 7 and 13 have been cancelled without prejudice. This rejection is respectfully traversed.

The present Office Action lacks a *prima facie* basis for an anticipation rejection under 35 U.S.C. §102. To wit, the anticipation rejection under 35 U.S.C. §102 is improperly based on two separate references, namely, Toot and Franklin, rather than a single reference, as required under the current law. The combination of Toot and Franklin has been named *Flash* in the present Office Action. But such a singularly named combination cannot create a single reference for the purposes of a rejection under 35 U.S.C. §102. No matter how the references are artificially grouped and named, the fact remains that the anticipation rejection is based on a combination of two separate references and not a single reference.

Neither Toot alone nor Franklin alone teaches, shows, or suggests all the elements of the independent claims 1 and 9. This point is even admitted in the present Office Action on page 3 where Franklin is alleged to show an element of independent claims 1 and 9 (shown as element

"d") not present in Toot. Further, neither reference discloses a storage medium and neither reference discloses that the data describing the menu buttons is stored on a storage medium and that the value representing the rate at which the sequence of pictures is animated is stored on the storage medium.

For all the reasons presented above, it is submitted that claims 1 and 9 and the claims dependent thereon are not anticipated by either Toot or Franklin. Therefore, it is believed that claims 1, 3, 5, 6, 8-12, and 14-16 are allowable under 35 U.S.C. §102.

In the event that it is believed by the USPTO that the current rejection under 35 U.S.C. §102 should have, instead, been given under 35 U.S.C. §103, the following remarks are presented to traverse such a rejection.

Claim 1 is an independent claim that serves as a base claim for claims 5, 6, 8, 10-12, and 14-16. Claim 9 is an independent claim that includes limitations substantially similar to claim 1. Claim 1 and claim 9 call, in part, for, "wherein a rate at which the sequence of pictures is animated is relative to a video frame rate, and a value representing said rate at which the sequence of pictures is animated is stored on said storage medium."

The cited subject matter from the claim defines an animation frame rate for a sequence of pictures. The animation frame rate is defined to be relative to the video frame rate, such as 0.5 x video_frame_rate. *See specification at page 8, Table 2.* One benefit of this is that animation can be authored and used independently from the actual video frame rate. For all button animations of a menu, the menu author can specify an animation frame rate, thereby defining how long each phase of an animation is displayed. *See specification at page 5, line 10.*

An animation is created to be visible at a frame rate relative to the video frame rate. The animation_frame_rate_code gives the animation frame rate relative to the video frame rate. *See specification at page 7, line 23 through page 8, line 2.* The animation_frame_rate_code field taught by Applicants specifies the frame rate of animations in the case of animated buttons being used. It applies to a range of regions specified by start_region_id_xxx and end_region_id_xxx, with the "xxx" referring the state of a button. If a start_region_id_xxx and its corresponding end_region_id_xxx differ, the two IDs define a range of regions that shall be presented on the display with this animation frame rate. *See specification at page 7, line 7.*

The animation frame rate is the rate at which single frames of the animation are intended to be played, or the length of time that each phase of an animation is displayed. *See specification at page 5, lines 10-12.* The animation frame rate is set during the menu authoring process. It is to be understood that the animation frame rate is distinguished from the actual video frame rate, for example, 24 fps for movies, 30 fps for domestic television programming, or 25 fps for European television programming. The animation rate is also different from the final display frame rate, which depends on the actual display device.

Toot allegedly shows that a button symbol can be created with animation effects. But Toot fails to teach, show, or suggest that an animation rate for a picture sequence is defined relative to a video frame rate, or that a value representing such an animation rate for the picture sequence is stored on the storage medium.

At page 3 of 8, Franklin allegedly shows a "current frame rate setting" of 12.0 fps, which is an absolute value. That is, it is not set with reference to any other rate or value. Instead, it is set as an absolute number. According to Franklin, the conventionally specified "current frame rate setting" of 12 fps may differ from the actual playback speed due to processor-intensive animation executed on a slow processor running. *See Franklin at page 4 of 8 with respect to "Frame rate".* As a result, Franklin suggests that the actual frame rate is unpredictable, and may result in the problems mentioned in Franklin's section on "Choosing the Proper Frame Rate".

Franklin apparently discusses how to set the frame rate so as to minimize disturbances that result from processor overload. But Franklin never even mentions or remotely suggests setting the animation rate relative to the video frame rate. Franklin hard codes the animation frame rate value as an absolute value. Thus, both Franklin and Toot fail to teach, show, or suggest each and every element defined in Applicants' claims 1 and 9. Since the rejected dependent claims include all the limitations discussed above in claim 1, it is also submitted that both Franklin and Toot fail to teach, show, or suggest each and every element defined in Applicants' claims 3, 5, 6, 8, 10-12, and 14-16

In light of the remarks above, it is believed that claims 1 and 9 and the claims dependent thereon would not have been obvious to a person of ordinary skill in the art upon a reading of Toot and Franklin (combined as Flash), either separately or in combination. Thus, it is submitted that claims 1, 3, 5, 6, 8-12, and 14-16 are also allowable under 35 U.S.C. §103.

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Conclusion

In view of the foregoing, it is respectfully submitted that all the claims pending in this patent application are in condition for allowance. Entry of this amendment, reconsideration, and allowance of all the claims are respectfully solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner contact the applicant's attorney at (609) 734-6813, so that a mutually convenient date and time for a telephonic interview may be scheduled for resolving such issues as expeditiously as possible.

In the event there are any errors with respect to the fees for this response or any other papers related to this response, the Director is hereby given permission to charge any shortages and credit any overcharges of any fees required for this submission to Deposit Account No. 07-0832.

Respectfully submitted,

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May 7, 2008

CERTIFICATE OF MAILING

I hereby certify that this amendment is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to [Mail Stop Amendment], Commissioner for Patents, Alexandria, Virginia 22313-1450 on:

Date